

## PROCEDURE FOR OBTAINING EXECUTIVE BRANCH TESTIMONY

A congressional committee may request (informally, or by a letter from the committee chair, perhaps co-signed by the ranking Member) or demand (pursuant to subpoena) the testimony of a presidential adviser. However, Congress may encounter legal and political problems in attempting to enforce a subpoena to a presidential adviser.

Conflicts concerning congressional requests or demands for executive branch testimony or documents often involve extensive negotiations, and may be resolved by some form of compromise as to, *inter alia*, the scope of the testimony or information to be provided to Congress. If the executive branch fails to comply with a committee subpoena, and if negotiations do not resolve the matter, the committee may employ Congress's inherent contempt authority (involving a trial at the bar of the Senate or House) or statutory criminal contempt authority in an effort to obtain the needed information. Both of these procedures are somewhat cumbersome, and their use may not result in the production of the information that is sought.

When faced with a refusal by the executive branch to comply with a demand for information, Congress has several alternatives to inherent and statutory contempt, although these alternatives are not without their own limitations. One approach is to seek declaratory or other relief in the courts. Previous attempts to seek judicial resolution of inter-branch conflicts over information access issues have encountered procedural obstacles and have demonstrated the reluctance of the courts to resolve sensitive separation of powers issues. Other approaches may include, *inter alia*, appropriations riders, impeachment, and a delay in the confirmation of presidential appointees.

In addition to the options generally available in the event of a refusal by the executive to provide information sought by Congress, when a presidential adviser who is not serving in a department or agency declines to testify before a committee, Congress might wish to establish the entity in which he serves by law, and subject the head of the entity to Senate confirmation.

## CONCLUSION

(1) Legal and policy factors may explain why presidential advisers do not regularly testify before committees. (2) Generally, a congressional committee with jurisdiction over the subject matter, which is conducting an authorized investigation for legislative or oversight purposes, has a right to information held by the executive branch in the absence of either a valid claim of constitutional privilege by the executive or a statutory provision whereby Congress has limited its constitutional right to information. (3) A committee may request or demand the testimony of a presidential adviser. Legal mechanisms available for enforcing congressional subpoenas to the executive branch may fail to provide the committee with the desired information. (4) Negotiations may result in the production of at least some of the information sought.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would once again remind all Members, even though other debate may have intervened, to refrain from personal references to the President.

## THE COST OF PRESCRIPTION DRUGS IN THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 60 minutes as the designee of the majority leader.

## GENERAL LEAVE

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend and include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. GUTKNECHT. Mr. Speaker, I rise and I hope to be joined by some of my colleagues tonight to talk about an issue that I have been coming down to the floor of this House for more than 5 years to talk about.

□ 2030

That is the price that Americans pay for prescription drugs relative to the rest of the industrialized world, and I have often said that we as Americans are blessed and we should be prepared and willing to subsidize people in developing parts of the world, like sub-Saharan Africa. I do not believe, however, that we should be required to subsidize the starving Swiss, the Germans, the French and other industrialized powers.

In the last 5 years, I remember when we first started doing these Special Orders, and I would come down here, and it was basically just me and my charts and the chorus has been growing around the country and we have been joined by Republicans, by Democrats, by Independents and others.

Another point I always try to make is that this is not an issue of right versus left. It is not conservatives versus liberals. As I say, it is not right versus left. It is right versus wrong, and the issue really is that Americans are being held captive here in the United States; and the net result, very predictable result, is that whenever you have a captive market, particularly for a life-saving product like prescription drugs, it is inevitable that we, the world's best customers, would wind up paying the world's highest price.

I know there are some who believe that the answer is for the United States to have some kind of price controls. I am not one that shares that view.

About 4 years ago or 5 years ago now I guess, and one of the reasons I became very involved in this issue was something that happened that was totally unrelated to the price of prescription drugs. The price of live hogs in the United States dropped from about \$37 per hundred weight to about \$7, and these were the lowest prices for our hog farmers in 50 years. Many of my pork producers started calling me say-

ing, Congressman, can you not do something about these incredibly low prices for these pigs? I said I do not know what I can do, and they said, well, could you at least stop all these Canadian hogs from coming across our borders, making our supply demand situation worse?

So, as their Congressman, I called the Secretary of Commerce, I called the Secretary of Agriculture, explained the situation that thousands of Canadian hogs were coming into our markets making the price of pigs in the United States even lower and can we not do something to at least stop all of these pigs from coming into American markets. The answer I got from both the Secretary of Agriculture and the Secretary of Commerce was essentially the same answer. They said that is called NAFTA. It is called free trade, and all of the sudden a light bulb went on over my head, and I said is it not ironic that we have open markets when it comes to pork bellies, not when it comes to Prilosec.

Literally, at that point, I moved from what Winston Churchill said the difference between a fan and a fanatic is, that a fanatic cannot change their mind and will not change the subject. I have become almost a fanatic on the issue of opening up markets to allow Americans to have world-class access to world-class drugs at world market prices.

I am joined by my friend from Illinois, and I would be happy to yield him some time; but I have a couple of charts.

Mr. EMANUEL. Mr. Speaker, if the gentleman would yield, why do you not do the charts because I think it is always the most informative for our audience.

Mr. GUTKNECHT. Let me talk a little bit about this particular chart. A year ago right now I was in Munich, Germany, with one of my staffers. We were on our way home and stopped at the Munich airport pharmacy. As a matter of fact, the name of the pharmacy, if you want to check it out, is the Metropolitan Pharmacy at the Munich airport. Those of us that travel a lot know if you want to get a bargain, the last place you go to get that bargain is to buy at the airport, but we were on our way out of town. We bought then some of the most commonly prescribed drugs here in the United States, and these are the prices that we paid in April of 2003 in Munich, Germany.

When we returned, we went and asked here in Washington, D.C., what the price for those same drugs in the same dosages with the same number of tablets would be here in the United States, and let me show you some of the examples.

Coumadin is a drug that my father takes. Here in the United States, 100 tablets in the United States, about \$92.66. In Germany, the price was \$28.44.

Glucophage, a very effective drug, been around for a long time for diabetes. Over in Germany, 30 tablets, 850

milligrams, back in April, \$15.50 American. Here in the United States, \$45, three times more expensive?

Pravachol, I do not know much about that particular drug, but a commonly prescribed drug, \$91 in Germany; \$159 here in the United States, and the list goes on.

One of them we have talked a lot about, and these numbers have changed in part because of the change in the value of the dollar, but Tamoxifen, those numbers now have changed, and I see we have the updated price on the Tamoxifen as of today. Tamoxifen has come down a lot in the United States, but it is still more than twice as expensive in the United States as it is in Germany. Part of the reason the price has come down in the U.S. is because there is now a new drug that is taking the place of Tamoxifen.

Zestril, \$39 in Germany; \$75 in the United States. Zokor, \$48 in Germany; \$82 here, and I think is representative and we talk a lot about Canada, but what you will find is generally prices for prescription drugs in places like Germany are even cheaper, and hopefully we will talk about that as well because of parallel trading. And I would be happy to yield to my friend from Illinois.

Mr. EMANUEL. Mr. Speaker, I thank my colleague from Minnesota.

As that chart shows, basically the difference between the United States price for the same drugs, same name-brand products from Germany to Canada to England is in the United States our seniors and our citizens have to pay somewhere between 40 to 60 percent more for the same drugs they would get at their pharmacy than their G-8 or other members of the European Union; and you and I have done this many times, and the fact is we are not talking about some field somewhere in some mythological moment of some dream. There is parallel trading today in Europe.

If you go to a pharmacy in Germany, they will price out that product you need, whether it is Lipitor, for whatever you need Lipitor for, the cholesterol, whether you need another drug for blood pressure, for arthritis, or for your heart. Any of those medications they will look at Spain, look at England, they will find the best price for you, and all we are talking about is having the American consumers, our senior citizens, link into that free market, get the competition on price. So rather than paying 50 to 60 percent more than what people in England pay for Lipitor, we would pay the price that they pay in England or in Canada or in Italy or in the Netherlands or in Germany or in France.

It is ironic because all those folks from those countries come to the United States for our medical care. Yet Americans must go overseas for their medications, and what we are talking about is having a system where you bring real competition to the pricing of pharmaceutical products and allow

that competition and that market to bring the prices down and allow that choice to exist, not so people would have to drive up to Canada, not so people would have to go on the Internet to get their pharmaceutical products; but that the prices that the people are now paying in Canada and in Germany and France for Tamoxifen, for Cipro, I am trying to look at the drugs, my eyes are not as good as they used to be, Zokor, those prices would come to their local pharmacy. They would go right down the street and get those prices, go to the pharmacist who would say, well, I think I can get something better in Toronto for you, or, we have the same price right here.

That competition would bring the prices down here; and that is all we are talking about, and every product, whether that is in steel, autos, electronic, software, food, America has the most open markets and the best prices in the world. There is only one product line where we have a closed market, and that is the pharmaceutical products; and it is the only product that Americans pay 30, 40, 50, depending on the product, sometimes 60 percent more than our European allies and Canada.

I would like to give you two other statistics. According to Families USA, of the 50 drugs most commonly used by seniors, the prices have increased 3½ times the rate of inflation over the past year; and between 2000 and 2003, seniors' expenditures on prescription drugs increased by 44 percent. So drug prices are going up.

We have now got a prescription drug bill that offers seniors no benefit as relates to price and affordability of those drugs, and now they are going to continue to go up; and unless we bring something that brings competition and choices to the system, the seniors are going to continue to pay somewhere north of 15 percent increases in prices, and our taxpayers are going to be funding not \$400 billion, but close to \$600 billion in a prescription drug benefit when we know we can get the prices of these drugs much cheaper.

I see you have the next chart. That is why I wanted to bring these statistics.

Mr. GUTKNECHT. Mr. Speaker, reclaiming my time for a few minutes, this is a chart which appeared last week in newspapers around the country with an Associated Press story talking about how various groups are trying to save money on prescription drugs, including a lot of the big insurance companies and health medical plans of differing kinds. I think this chart tells a rather shocking story; and I do say this and I am sincere when I say this, unfortunately I think as we looked at the problem of prescription drugs, particularly for the elderly, in my opinion, we misdefined the problem. I think if you misdefine the problem, the chances of getting the right solution are not very good.

The problem is affordability, and I think this chart illustrates part of the

problem. Since 1997 we have seen drug prices for name-brand prescription drugs in the United States according to the Segal Company, in a report that was published, an article that was published by the Associated Press last week, here is what drug prices have done just in the last 8 years. In 1997, average drug prices went up 12.9 percent; in 1998, 16.8 percent. They slowed down a little in 1999 to only 14.2. Then back up to 16.3, 16.9, 18.4; and the estimates for 2003 are 19.5 percent, and for this year, we are projecting that drug prices will go up 18.1 percent.

If I could just finish this, that means that in the last 8 years, when the core rate of inflation has been less than 24 percent, prescription drugs in the United States have gone up 133 percent. I am not all that good in math, but that is about six times more than the inflation rate. I do not have an MBA. I am not the world's smartest guy, but I know this: this is unsustainable. No matter how you do this, if you have the taxpayers pay for it, if you have our grandchildren pay for it, this is unsustainable. It is eating the United States up and this is the problem.

When people talked about the prescription drug problem, unfortunately too many people here in Washington talked about it as if it was a problem of coverage. Well, if you went to town hall meetings, and you and I have done a lot of town hall meetings with seniors, they will tell you the problem. The problem is not coverage, because they know that right now in any one of these years I believe they could have bought prescription drug coverage from any number of insurance carriers, including the AARP. So they could get coverage. The problem is affordability, and we really only have a couple of choices.

One of them that we use with virtually every other product, including products that we normally think of as being intellectual-property-type products, we have open markets. I mean, it costs a whole lot of money to develop that first chip when Intel brings a chip off the line; but they cannot use this differential pricing for customers in Japan get one price; customers in Germany get another price; oh, and by the way, customers in the United States get stuck with prices that are 40 or 60 percent higher.

I yield back to my friend from Illinois.

Mr. EMANUEL. Mr. Speaker, I am glad you pointed that out. In each of those years pharmaceutical products ran higher in the sense of inflation by the average of 5 to 6 percent more than the core inflation rate.

Mr. GUTKNECHT. Five to six times.

Mr. EMANUEL. Thank you. Five to six times more than the core inflation rate, and it is what drives seniors. I have done town halls, but also I still do office hours at grocery stores and pharmacies where I just meet constituents; and seniors always tell you, I cannot afford the drugs I need. There is an issue of price.

The second issue they said, do not harm the plan I have. I have a good plan from where I work; please do not harm it.

Lastly, and in this order basically, they would then say can we not get a benefit under Medicare, and in the bill that was just passed here and the reason I opposed it is on the fundamental issue of price and affordability.

□ 2045

The legislation on prescription drugs was totally silent on dealing with price. And what we have proposed here, your legislation, deals with the issue of price and affordability and allowing pharmaceutical products and allowing Americans to get the products they need at world-class prices, that is, at 50 percent discount, 40 percent discount, and what people in Germany, France, England, Canada, Italy, the Netherlands, or Ireland is paying. That is what we are trying to do, is address the issue of price and affordability that all of our seniors have talked about.

Then it brings up the other issue. If we are going to have this benefit as part of Medicare, whether our taxpayers today or our children tomorrow pay for it, to me it is mind-boggling why, when you know that you could get prices cheaper for the same brand-name drug, Lipitor or Zocor, why you would get those drugs and pay 40 percent more when you know you can get them 40 percent cheaper. Any CEO who told their board, look, we have checked it out, our supplier, we can get a better price, 40 percent better, but we are going to take a pass on it, that CEO would be fired.

We as the stewards of the taxpayers as well as our senior citizens have an obligation if we know we can get that same drug, that same product for 40 percent less, we have an obligation to do that.

Eventually, we are going to turn our time to the issue of safety, but Health and Human Services is spending \$80 million on a commercial to convince people the prescription drug bill they passed was a good bill. For about \$80 million we could literally put in place, the Food and Drug Administration, a safety plan so that when people bought their drugs in Canada, Europe, et cetera, they could know for sure that they were safe.

Today, not a single drug, in the last 10 years, has anybody ever gotten sick from buying drugs from Canada. We know that for a fact. But for the same amount of money that they are using to try to persuade people that what we did was good, we could put a safety program in place and allow the free market to operate the way it is supposed to operate.

Mr. GUTKNECHT. Well, Mr. Speaker, one of the arguments we always get, and I want to follow up with something the gentleman just said, because I think it is important. Some people say, well, I do not want my mother-in-law buying her prescription drugs on line.

You know what? Neither do we. What we want is parallel trading. What we want is our local pharmacists to be able to buy these drugs at 30 to 300 percent less so that our seniors and others can buy them at their local pharmacy and get those kinds of prices.

The gentleman talked about this, and I do not think most people understand it, I know a lot of our colleagues, still, this is like alchemy or something, but it happens every day in Europe. I wonder if the gentleman would not just share the story of how many drugs we actually import, like Lipitor. Perhaps the gentleman would share that story.

Mr. EMANUEL. Right. First of all, 2 years ago is the last year for which we have data, and the data shows that the United States imports \$15 billion, just shy of \$15 billion a year of pharmaceutical products into the country. \$15 billion. We already do it.

Lipitor used to be manufactured in western Michigan. Today, Lipitor, a drug that some of our colleagues use, we know the Vice President of the United States uses, we know the Secretary of Health and Human Services uses, is now manufactured in Ireland.

Mr. GUTKNECHT. Every tablet.

Mr. EMANUEL. Every tablet is manufactured in a facility not in the United States. It used to be here, but it is manufactured in Ireland. Then it is exported, same packaging, to the pharmacy shops in France, Germany, England, Ireland, United States, Canada, and around the world. Yet that drug, Lipitor, we pay 50 percent more in the United States than they do in Canada for Lipitor. It is the number one selling drug for senior citizens with high cholesterol.

Mr. GUTKNECHT. Reclaiming my time for a moment, Mr. Speaker, when people talk about safety, we need to understand, and I am confident they do everything they can to make certain as they ship these drugs around the countries, from one country to the next, they are as safety conscience as they can be, but do understand they are not shipped in armored cars. These are going in big containers, generally in big barrels with a plastic bag on the inside. And the idea that they cannot sit on a loading dock in New Jersey or in Illinois or Oregon or wherever and somehow that is completely safe, but if a consumer in the northern suburbs of Chicago or in southern Minnesota decides they want to order their drugs from a reputable pharmacy in Canada and the package is delivered by FedEx or UPS, that somehow that is not safe, is laughable.

We have talked about this enough, but it just boggles my mind. And I think the gentleman's point is a good one, that here we are spending lots of money encouraging people to believe that the pharmaceutical drug plan that was passed by the Congress and signed by the President, this is a democracy, it is the law of the land. And I am not here tonight to be overly critical, but the point is, for all the money we are

spending promoting this, we could have put in place a system that would be safe for American consumers.

Frankly, if they could buy their Glucophage for 300 percent less or if their pharmacist could buy it for 300 percent less and pass some of the savings along to them, they may not need a benefit from the Federal Government. They may not need our grandchildren to pay for those drugs.

If the drug companies can figure out a way to safely import and export drugs around the countries, then we ought to be able to. More importantly, if we can have parallel trading between Germany and France and England and Ireland and Spain, in other words, if a pharmacist in Germany can order their Coumadin from a pharmaceutical supply house in Spain and save his consumers or her consumers 75 percent, they do that.

Here is the thing about the Europeans. They are not intrinsically smarter than we are. If they can figure out how to do this safely, I have every confidence our pharmacists and our FDA can do this safely. It is a bogus argument. It gets thrown in our face, but here is the interesting thing. No one believes it. Consumers do not believe it, and we have some evidence that there have not even been complaints filed.

There is another article, and I am sending this out to all my colleagues in the next couple of days, again from last week's paper. It says, "Pharmacy complaints slow none on Canadian imports." In fact, in the State of Minnesota over the last 5 years, there have been 473 complaints to State regulators about pharmacies and/or pharmacists. In the last 5 years. Not one alleged an error by a foreign pharmacy, according to a review conducted by the Associated Press.

In other words, if there is a huge problem, and literally in some areas of my home State half of the seniors are now getting their prescription drugs from Canada, so if this was a huge safety hazard, you would think that we would be getting lots of calls, lots of complaints, and yet the answer is zero.

Mr. Speaker, I yield to my colleague.

Mr. EMANUEL. I thank my colleague, Mr. Speaker.

The reason I brought up the \$80 million being dedicated towards advertising the prescription drug legislation and that for that same amount of money we could put in place a system at the Food and Drug Administration to ensure that people could buy their drugs safely is because President Kennedy once said, "to govern is to choose;" and that is the choice we have made.

With that system in place, we would have, as the gentleman said, rather than having specifically a benefit that some do not think accomplishes that much, we would bring the discounted prices, the 40 percent retail discount price, right to our pharmacies in the United States and to our consumers,

saving billions of dollars throughout the health care system that could be dedicated towards the uninsured, towards whatever we wanted to dedicate it to. It would literally wring out an inefficiency in the health care system by allowing the, irony of ironies, the free market to work.

Secondly, we know from the Wall Street Journal, I think about 3 months ago, that the pharmaceutical industry thought that the best way to defeat this legislation was to scare people by talking about people getting sick, the safety risk of the pharmaceutical drugs imported from Canada. Yet in sworn congressional testimony, the Food and Drug Administration acknowledged not one person they could find has ever gotten sick from buying drugs from Canada and Europe, and yet 2 million Americans do it every year. People have gotten sick from food that has been imported from around the world, but not one person who bought their drugs from Canada has ever gotten sick, according to the Food and Drug Administration, and close to 2 million Americans do it a year.

So that is number one.

Number two, in my State, my governor conducted a study looking at the likelihood if they were to import medications from Canada how much they could save Illinois. We spend close to \$350 million a year for retirees and State employees. The State would save its taxpayers \$91 million if they bought their drugs competitively. In addition to that, and the New York Times acknowledged this about the study, the study in Illinois found that Canada actually had a safer system than the United States because less people touch the drug from manufacturing to the shelf in the pharmacy.

So this whole notion of fear was literally an embellished story by the pharmaceutical industry as a way to defeat this legislation. And what I am proud of is that not only the American people have not bought it, but 243 Members of our colleagues here in this hall did not buy it, passed this legislation this year not once but twice, and, hopefully, the other body, the other Chamber will follow suit. This whole notion of safety was a red herring by the industry to intimidate people.

I will make one last comment about safety. Six years ago, when the generic industry was just being started, the name-brand pharmaceutical industry said the problem with generics was safety. What did we discover? We discovered that a lot of those generic pills were being manufactured at the same facilities that the brand-named drugs were being manufactured at. Then they walked away from the safety argument, and generics have grown as an industry, saving tens of billions of dollars for our consumers.

They left that argument on the shelf, but when it came to competitive pricing for pharmaceutical products, which allow the market to work, which the gentleman's legislation does, they

brought up the safety issue. And, once again, we have shown in sworn testimony where the FDA says not a single person has ever been recorded getting sick, and the American consumers have not bought that argument that the industry has tried to scare them with. They know they can do. They do it every year.

My colleague and I run into seniors every year, I run into them at some of the public housing and some of the other senior housing in my district, where somebody on the haul will get everybody's prescription and will go up to Canada, fill everybody's prescription, and come back. They know it is normal. They do not think anything is wrong with this. They just cannot understand why we cannot do it here.

So on that issue I wanted to address those specific points on safety, and I yield back to my colleague.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman.

As my colleague knows, people are voting with their feet; and the gentleman alluded to how much we are really talking about, ultimately.

Now I am not saying this is a panacea. I do not think this is the silver bullet that will solve all of our problems with seniors being able to afford their medications. Clearly, there will still be seniors that fall through the cracks, and I think there legitimately is a role for government to play to help those people who cannot otherwise afford the health saving products they need. But the bottom line is, if we could at least guarantee them they had fairer prices, fewer and fewer of our seniors would need this.

Let me also say this is not just about seniors. There are a whole lot of working families in my colleague's district and my district that have children that have very serious medical conditions that are now paying thousands of dollars per month for some of these medications where these companies are willing to sell those same drugs for a lot less in some of these other countries.

Let me put a pencil on this, because an estimate done by Dr. Steve Schondelmeir, a professor of pharmacology at the University of Minnesota, his estimate is Americans will spend about \$200 billion on prescription drugs this year. That is not just seniors, that is all Americans.

Now I am not saying we are going to be able to take advantage of all of the differences that we see on some of these charts. I think, as time goes forward, we will see if we do open the markets we will see prices come down in the United States, and we will see prices in other industrialized countries start to level off. At least we will not have to subsidize it.

But my estimate is that we will save at least 30 percent, and no one has challenged me on that number. I have had some of the pharmaceutical folks say, oh, no, no, no, it is not nearly that. I have said, okay, what is the

number? Well, we do know, and some of it has to do with currency and some of it has to do with other problems. But, my colleagues, 30 percent of \$200 billion is \$60 billion.

Now that is \$60 billion that American consumers could spend on a lot of other things. They could be buying things that might improve our manufacturing sector. They could be taking their kids to baseball games. They could be paying for violin lessons for their grandchildren. \$60 billion would amount to the largest single tax cut in the history of the world.

□ 2100

I, as a supply-sider, think that is a good thing. That is money that could be spent on other things. They say, well, if we do that, there will be no more research. I do have to give the pharmaceutical industry credit. They are turning out new products, a lot of them we see advertised every day, and there is some health advantage to all of these that help some of the older men in the United States still enjoy a more vigorous life. Let us say it that way for prime time here. But at the end of the day, many of the things that the drug companies are spending their research dollars on are not necessarily on the miracle cures that they sometimes talk about. They are on new products that are slight improvements over existing products. For example, they changed a couple of molecules in Prilosec which was going off patent and they call it Nexium. Prilosec can now be bought over the counter for about \$15, but they wanted to convert all the Prilosec users to Nexium because that sells for about \$130 a month. It is not exactly about improving the quality of people's lives as much as it might be about making certain that they can guarantee a profit stream.

Let me just add one more point, because some people say, well, if this happens, it is going to really have a devastating impact on America and American industry and American companies. Let me just point out that some of the largest pharmaceutical companies in the world are not based in the United States. Bayer, the maker of Cipro, is a German company. Glaxo is actually a British company. AstraZeneca and Roche and Novartis, I believe, are all Swiss companies. So many of these pharmaceutical companies not only do business under the European model; they are based in Europe. And so the idea that somehow this is going to devastate America and American industry again is sort of a specious argument.

So we talk about safety. We talk about research. I am proud of the fact that we as Americans, and this is a number that I try to share with people, as the vice chairman of the Committee on Science, this is a number we should all be proud of. Americans represent less than 6 percent of the world's population; but between what the taxpayers pay for, what foundations and voluntary contributions pay for, and what

we pay for in the high prices for our prescription drugs in the United States, Americans pay for over half of the basic research that is done in the world. We are 6 percent of the world's population, and over half of the basic research is done by and paid for by Americans.

Mr. EMANUEL. The gentleman and I have talked about this. What galls me a little about this whole subject is that not only are we paying the most expensive prices in the world but all the research that the pharmaceutical industry does is subsidized by the taxpayers. They write it off fully, 100 percent. The taxpayers are literally funding the research. Not only do we fund the research for this new medication, we have the dubious honor to pay the most expensive prices in the world. Second, is through the National Institute of Health, which is an annual budget here in the Federal Government of \$27 billion, not all of it going to research for new medications, yet all the primary research that they do, I think it is about half of it, literally is subsidized by the taxpayers. One cannot think of a cancer drug or an AIDS drug, just to name two, that the taxpayers did not do the primary research. The pharmaceutical industry took that research, took it to market, took it through stages one and two, but the primary research was paid for by the taxpayers directly through the National Institutes of Health and then the follow-on research was subsidized through the tax credit research and development.

All the R&D that the companies do is tax free, the taxpayers subsidize it; and then we pay the highest prices at our pharmacies for those same drugs that a lot of these companies sell on the shelf in Canada, in England, in France, in Germany for 40 percent to 60 percent less.

So we paid for the research and then we pay the highest prices in the world. The gentleman noted that. That to me is what is most galling here. I do not fault really the pharmaceutical industry. I fault us here in the political system who have a job to represent our taxpayers, our middle-class families, our seniors, for allowing them to get away with a system that manipulates the patent laws, deals with tax subsidies through the NIH or through the tax credit R&D, and then passes legislation that literally gets away without dealing with the fundamental issue that all of us have constantly heard about at our town halls, at our grocery stores and at our pharmacies and, that is, we cannot afford the medication we need. It is not that they needed a benefit, not that a benefit was a bad thing to do, but they wanted the medications they needed at the prices they can afford.

I give the pharmaceutical industry credit for two things: one, they played the system perfectly, and I do not fault them; second is that they do good work. I was once in the hospital for 7½

weeks. I would not be here if it were not for some of the products that they had developed. I have no problem with that. But the prices I paid at the hospitals were a lot cheaper than what we pay at the pharmacies.

All we are asking for is that same competition to get those prices. We are prevented from doing it. This legislation that was recently passed specifically outlaws it; and I do believe, as I do in free markets, that if you allow that competition and you allow the consumer that freedom, you are going to get choice. Once that choice gets into the market, prices will come down here. Let me say, they will go up in Europe. But you will have an equilibrium, and you will not have a 50 percent disparity where we end up subsidizing those folks in Europe. When I say "we," hardworking middle-class families, taxpayers and the senior citizens.

I say pay for the research, I want us to own that research, but we need not have to pay the highest prices in the world. That is the mistake. The prices on the shelf at the pharmacies, that is the error here. We can do something about it. We have done it here in the House. Hopefully, our colleagues in the other body will also follow suit.

Mr. GUTKNECHT. I want to thank the gentleman for joining me tonight in this Special Order because I think this is an issue that is just simply not going to go away. I think a lot of folks here in Washington and some of the folks who represent the pharmaceutical industry thought, now that we have passed the prescription drug benefit, this issue about affordability and competition and open markets will just go away. We are here tonight to report that the issue is not going to go away and that Americans are still concerned.

As I say, it is not a matter of right versus left. It is right versus wrong. It is simply wrong to hold American consumers captive so that we pay the highest prices in the industrialized world. As the gentleman just said, we subsidize the pharmaceutical industry and the research in three separate ways. First of all in the Tax Code. Not only do they write off every dollar that they spend on research; in some cases they actually get a research and development tax credit. So the costs to the company are very negligible. In addition to that, we subsidize them through the NIH, the CDC, and even through the VA and the Defense Department. So I think the real number that we spend on basic research that ultimately benefits the pharmaceutical companies actually is closer to 27 billion taxpayer dollars per year.

Again, in some respects I am very proud of that. When we talk about some of these miracle drugs like Tamoxifen, that was developed by the NIH, the National Cancer Institute. It was taken through phase-2 trials. Then they licensed it to the pharmaceutical company and our reward, at least until just the last several months, is American consumers were paying six times

more for that drug than consumers were paying in Germany and in England and in the industrialized West. And I agree with the gentleman. It is not so much shame on the pharmaceutical industry. Essentially they have been given a market opportunity here in the United States with a captive market, and they have taken advantage of it. I do not say shame on the pharmaceutical industry as much as I say shame on us. Because we create the rules, and the rules here are heavily stacked against American consumers.

We are not asking them to give away their drugs. I would not say to Intel, and they deal in intellectual property, we understand that first chip off an Intel line may cost them \$500 million. The next chip may cost 5 cents. We do not tell them what they should sell their chips for, but we do not stand idly by if they want to take advantage of American consumers or American users of their products while they sell them for much lower prices in other parts of the world.

All we are really asking for is basic fairness. I think at the end of the day, the American people understand this. This is an issue the American people get. Part of the reason the gentleman and I have been traveling around the country and speaking to various groups and at least raising the attention and elevating the debate about this issue is because it is such an important issue to so many people. I was in Oklahoma City, and I had a lady come up to me at the end of the meeting there. I spoke at a senior expo down there. A lady came up, she was probably in her thirties. She said, I work for the local bank. I said, really. You could tell she had something more she wanted to tell me. She said, Congressman, what I do is reverse mortgages at the bank. You would not believe the number of seniors who come in and get a reverse mortgage on their house because they cannot afford their prescription drugs.

I say, shame on us. That kind of thing, we could do something about. In fact, I am proud of the fact that we in the House have done something about it. When people call me and say, well, what can we do? What can we do, Congressman, to make certain that something like this happens this year? I always say, the House has done its work. If people would like more information about what they can do to make this a reality, to allow Americans to have access to world-class drugs at world market prices, they can leave me an e-mail, just go to my Web site at [gil.house.gov](mailto:gil.house.gov) and I can give them more information, we can give them more charts, we can show them what we have learned.

We know, for example, in terms of the safety, and the gentleman alluded to it in his remarks, the CDC and others all keep records, we know that not a single American has died as a result of taking a drug from another country. We also know that, on average, 6,000 Americans die in hospitals in the

United States from getting the wrong prescription drug, the wrong dosage, or they get a reaction to a prescription drug. That is happening now. We know, for example, you are much more likely to get sick and die from eating onions from Mexico. In Pittsburgh alone, we had 500 Americans who got seriously ill, three died, from onions from Mexico. Nobody has died from taking Coumadin from Germany.

Mr. EMANUEL. Before I leave, I wanted to add one other point. I think the gentleman explained this, and I had not even known this, but on Tuesday night, the pharmacies across America get the new prices coming in over their fax machines. Going to that other chart, this year we are expecting pharmaceutical products will go up 18 percent. Inflation will be at 2 percent. So if you go to your pharmacy, to all the people who may be watching, and you go to fill your prescription, then you wonder why the same prescription that 3 months ago if you get a 3-month supply or a month ago cost 21 bucks or 50 bucks and this month, the same drug, nothing changed, nothing, but it is up \$12, it is all because of that chart.

You can go ask your pharmacist if you have time on your hands on Wednesday how much they priced up all the products. Unfortunately, what the pharmaceutical companies have done, we just talked about it, they game the tax laws. Again, no criticism, but they have gamed the patent laws in this country, they are gaming the legislation on prescription drugs, and what they decided to do was price up the pharmaceutical products right before this discount card is introduced. So what it is going to look like is a sale at Neiman Marcus around America, which is rather than paying and getting, quote-unquote, this 25 percent discount, which I am not really sure will ever materialize, what you are really going to see is a run-up in prices right before this summer, and you are seeing it today at your pharmacy. So if your prices are going up, you know what is going on, and when this big balloon, big announcement is going to happen, you are going to see a big sale at Neiman Marcus right here in America. You are not going to get a sale price. They are just plussing it up before the big discount card. Our American senior citizens are going to be running around in a cul-de-sac chasing themselves, and there is going to be no discount, the taxpayers are going to be saddled with a big bill, they are going to pay \$35 a month for this card, and they are going to see no discount.

Yet we literally have in front of us the opportunity, and the gentleman noted a figure, I think it is an accurate figure, at a minimum, to save \$60 billion this year if we had competition in the free market. That could go toward other things in our system, a college education, buying things for kids' education, other type of health care needs; but it just could be so much more productive than what we are doing with it.

I think it is so important that we pass this legislation so that the legislation we do pass finally deals with the central issue our constituents tell us about, price and affordability, and so we do not have to hear the story about a mortgage consultant doing reverse mortgages for our senior citizens so they can literally take the equity out of their homes so they can buy their medications that they need.

This is the greatest country in the world. We are all fortunate to live here. We can do better than what we have just seen in front of us. I thank the gentleman for taking this time to organize this.

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Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for joining me tonight. I think it would be fair to say we do not agree on every issue, but we agree on this, and that is Americans should not be held captive. The House has done its work, and I was never prouder than when this bill passed the House Chambers here against a withering attack by the pharmaceutical industry and sometimes by our own FDA. But this is the people's House, and that night the people finally ruled.

I am not asking for the pharmaceutical companies to give away their companies. I am not asking them to change the way they do research. It may well be they have to adjust how much they spend on advertising and marketing, because there is growing evidence they are now spending more money on advertising than they are on research. I do not know if those numbers are true, but I think perhaps we can have some hearings here in the House and find out.

But, at the end of the day, all we are asking for is basic fairness. It is not right versus left. It is simply right versus wrong. It is wrong to hold Americans captive.

We are not going to go away. This issue is not going to go away. I believe that before this Congress adjourns the chances are very good that our friends on the other side of this Capitol will follow the lead of the U.S. House of Representatives. They will pass a bill that will allow Americans to have access to world-class drugs at world-market prices.

Ms. DELAURO. Mr. Speaker, I rise to discuss an issue that touches the lives of every senior in this country and want to thank my colleague from Minnesota, Mr. GUTKNECHT, for his leadership in the fight to lower the cost of prescription drugs.

The single greatest failure in the Medicare prescription drug bill that passed this Congress last fall—and there were many—was its refusal to do anything about the one issue that affects seniors most—price. With the cost of the 50 most frequently used medicines by seniors rising by nearly three-and-a-half times the rate of inflation, how any prescription drug bill could fail to address this concern is, frankly, beyond me. High health care prices are eroding the living standards of our middle-class families.

In the last few weeks, we have learned who the real losers were in this Medicare bill: the American people—current and future retirees. First, we learned that the true cost of the legislation was fully a third higher than Members of Congress and the public had been told—that it would cost the taxpayers \$535 billion instead of the \$395 billion previously reported.

I say "reported" because we also recently learned that the Medicare actuary Richard Foster, a 31-year career public servant, was threatened with dismissal by his superiors in the Administration last year when he discovered that the cost of the bill far exceeded what had been publicly acknowledged. And this was before the 3-hour vote held here on this floor.

And last week, we learned that the program will be bankrupt sooner than previously estimated. According to the Medicare trustees' report, Medicare's finances have, quote, "taken a major turn for the worse." The report predicted the program will be bankrupt by 2019, instead of 2026, as had been previously estimated. According to last Tuesday's Washington Post, since the program was created in the 1960s, never before has Medicare lurched seven years closer to insolvency in one year.

All this flies in the face of what the Republican leadership and President Bush himself said as the bill was being debated by Congress. The President said that any Medicare prescription drug legislation that came to his desk must, quote, "strengthen the program's long-term financial security." And the Speaker of this body said that the final bill, quote, "made Medicare more sustainable" and would "change the paradigm of health care in this country."

Well, Mr. Speaker, the Medicare law may have changed the paradigm of health care in this country, but it was decidedly not for the better. As a point of fact, the trustees report tells us that the law was the primary reason that Medicare—and the health care of our senior population—will be less secure.

Combined with an advertising campaign promoting the law that even the nonpartisan General Accounting Office found to have "notable weaknesses and other omissions," it is fair to say these recent developments have seriously undermined public trust in the Medicare program and its ability to provide care for our seniors.

This Congress has a moral responsibility to honor our contract with the seniors of this country—a contract that says after a lifetime of hard work, raising families, and doing the right thing, that seniors deserve the dignity of a secure retirement. That begins with restoring public confidence in the Medicare program—one of the twin pillars of our retirement security safety net and the embodiment of our country's shared values. That begins with improving the program's financial health for real.

The first step would be a simple one—giving ordinary Americans the opportunity to reimport drugs from some countries, a choice millions are already making on their own, out of desperation. Legalizing reimportation is something Congress ought to have included in the bill last fall. This one provision would save Americans \$600 billion in the next decade—savings passed directly onto the consumer.

We know reimportation is a safe and feasible option. In 2001, U.S. drug companies themselves reimported \$14.7 billion worth of brand-name medications from their overseas plants. In fact, according to incoming FDA

Commissioner Lester Crawford, for less money than the administration is spending on its advertisements to spin the truth about the recently passed Medicare bill, the FDA could set up a program to safely reimport drugs from Canada. With that knowledge, this body overwhelmingly passed legislation by a vote of 243 to 186 that would allow for the safe importation of drugs.

But instead of adopting our legislation, the final bill that passed the House and Senate contained no provisions to hold down the cost of drugs at all. And by tying the premium seniors will pay to cost, seniors' out of pocket costs will continue to rise.

Mr. Speaker, with the baby boom generation set to retire at the end of the decade, it is critical that Congress act now to protect the quality and the solvency of the Medicare system. That starts with bringing down costs, including giving the Secretary of HHS the power to negotiate lower prices with the pharmaceutical industry, just like they do at the VA. But legalizing reimportation and giving seniors access to international markets is something this body supports, and it should be the first step. It should be law.

Again, I want to thank my colleague from Minnesota for this opportunity. Let's do the right thing.

#### OUTSOURCING OF JOBS

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. SMITH) is recognized for 60 minutes as the designee of the minority leader.

Mr. SMITH of Washington. Mr. Speaker, I want to talk this evening a little bit about a subject that has been on everyone's mind and certainly being talked about throughout the country, and that is the issue that has come to be known as outsourcing or offshoring, the concern that many Americans have about the number of jobs that used to be done in the United States that are now being done overseas.

The best way to think about this issue is to think about our entire economy. It is not really just about outsourcing or offshoring of jobs. It is about the future of the U.S. economy and, most specifically, where the jobs are going to be. That is the fear that I hear expressed by my constituents and by people throughout the country. They are worried about what jobs are going to be here for them in the future and for their children and for their grandchildren. What should they prepare for? What type of economy are they going to have? Are we going to have enough good jobs across the board so that the people of our country can be employed and employed at a standard of living that we have all come to expect?

I think, when I look at the debate, we have to be very careful about how we approach this issue; and I am pleased in working with the new Democrats and also with other members of the House Democratic Caucus that we are working on a series of proposals and a series of issues to try to address this

issue in a serious and intelligent manner that will help us create the type of economy that we all want.

Right now, there are sort of two directions that we see being taken by the majority of folks, and neither one of them is particularly helpful. On the one hand, I do not think it makes sense to take a full-scale protectionist approach, to basically say that we need to stop trading with other countries that do not have the same labor and environmental standards that we do, that we need to cut off immigration and, in essence, we need to adopt a policy that says we are going to do whatever we can to protect every job that currently exists, regardless of the consequences. History has shown us that sort of approach leads to less economic growth in the future, and that is what this is all about, is long-term, sustainable economic growth for the benefit of all of us.

I would point out that the most protectionist economy in the world right now is, arguably, Japan. They have done just about everything they can to protect all of their existing jobs, all of their existing businesses. They subsidize industry. They erect tariff barriers to outside countries coming in and competing with them. They protect bad loans even long after they are no longer obviously going to be paid. They do everything they can to protect that economy, and it has led to a decade-long recession in Japan.

One needs to be able to change. One needs to be able to grow. One needs to be able to not just protect the bulk of the jobs they have but, most importantly, to be prepared to take advantage of the future economic opportunities that are to come.

That is what we do better than any other country in the world. We have a higher capacity for change than any other country in the world. We have consistently seen the next trend, gotten there first, and benefited economically. Most recently, we have seen this in technology, in the Internet, in software and hardware before that. We prepare ourselves for the new trends in the economy, take advantage of it, and get out front and have a leadership role, and we need to do that again.

As much as protectionism is not the best way to go on this, I think it is an equal mistake to take the approach that far too often the current administration has taken, which is to say that there is not a problem, basically outsourcing, offshoring, it is just the natural economic dynamic at work, creative destruction, it will all work itself out, we do not need to do anything. That, I think, is an equally unwise approach. There are policies that we need to adopt in this country to be prepared to deal with globalization, to deal with the economic changes.

They will point to past times when it looked like our economy was challenged throughout the 1980s. People thought that Japan and other countries in Asia would take over and we

would never be able to compete with them. That certainly did not happen as we came into the 1990s. With each economic change, there has been this concern that somehow we will not be able to compete, and we have risen above and competed. And that is true, but it is wrong to say that we did that effortlessly, that we did that without adopting policies to confront it.

In the 1950s and 1960s, we adopted policies to deal with the space race that we had going on with the Soviet Union. We set up the National Science Foundation. We did a lot of things to encourage people to study and get education in the areas where we thought the jobs and the economy would be in the future. We built the interstate highway system. We passed the GI Bill to make sure that all the people coming out of the service could have access to education.

We made policy decisions to deal with these changes. We did not just take a step back and say economics will take care of it. We adopted policies that made sense to move us forward. That is what we need to do today, and we have some specific ideas amongst the new Democrats and the Democratic Caucus to do that.

First and foremost, there is nothing more important than education and job skills in competing in the global economy. The more skills we have, the more education we have, the more we will be able to compete, particularly for those high-end jobs that are so important in keeping our economy strong and giving American families the opportunities that they deserve.

There is some despair out there about job training. We can see stories about people who were trained for jobs and then wound up being outsourced and they did not have access to them. But for every one of those stories, there are hundreds, if not thousands, of other stories of people who have used the advanced skills training and the advanced job training and education they have received to be employable, to be employed in many cases in better jobs than they had before.

That is why I and a number of other folks have introduced a bill on trade adjustment assistance to the number of people who are eligible for those benefits because we believe that trade adjustment assistance works. It would work a lot better if we fully funded it so everybody eligible for those benefits got all the benefits, but it works when it is used, and we need to use it more, not less. So our Trade Adjustment Assistance Bill would expand the number of people covered to include service sector workers who now increasingly face the same sort of competition that manufacturing sector workers have faced.

We also expand the bill to expand the number of countries to which, if they lose their job, they are eligible for these benefits. Currently, it is restricted to very few countries that we have specific trade agreements with.